

**MINUTES OF THE JOINT EXECUTIVE APPROPRIATIONS  
COMMITTEE MEETING  
April 6, 2010 at 1:00 P. M.  
Room 445, State Capitol, State Capitol Complex**

Members Present: Rep. Ron Bigelow, Co-Chair  
Sen. Lyle W. Hillyard, Co-Chair  
Rep. Bradley G. Last, Vice Chair  
Sen. Daniel R. Liljenquist, Vice Chair  
Rep. David Clark, Speaker  
Rep. Brad L. Dee  
Rep. James R. Gowans  
Sen. Scott K. Jenkins  
Sen. Patricia W. Jones  
Rep. David Litvack  
Sen. Peter C. Knudson  
Rep. Rebecca D. Lockhart  
Sen. Karen Mayne  
Rep. Carol Spackman Moss  
Sen. Wayne L. Niederhauser  
Sen. Luz Robles  
Sen. Ross I. Romero  
Rep. Jennifer M. Seelig  
Sen. Michael G. Waddoups, President

Staff Present: Jonathan Ball, Legislative Fiscal Analyst  
Steven Allred, Deputy Director  
Greta Rodebush, Committee Secretary

Speakers Present: Becky Bruso, Governor's Office of Planning and Budget  
Danny Schoenfeld, Office of the Legislative Fiscal Analyst  
Dr. Robert Rolfs, Department of Health  
Dr. David Sundwall, Department of Health  
Neal Gooch, Department of Insurance  
Briant Smith, Commission on Criminal and Juvenile Justice  
Steven Allred, Office of the Legislative Fiscal Analyst  
Tom Vaughn, Office of Legislative Research and General Counsel

**Note:** A copy of related materials, and an audio recording of the meeting can be found at [www.le.utah.gov](http://www.le.utah.gov).

A list of visitors and a copy of handouts are filed with the committee minutes.

**1. Call to Order/Approval of Minutes**

Co-Chair Bigelow called the meeting to order at 1:50 p.m.

**MOTION:** Co-Chair Hillyard moved to approve the minutes of the Joint Executive Appropriations Committee meetings on February 17, 2010 and March 10, 2010. The motion passed unanimously with Sen. Knudson, Sen. Robles, President Waddoups, Rep. Last and Rep. Lockhart absent for the vote.

## **2. Federal Funds/ARRA/Non-Federal Grants Reports**

Becky Bruso, Governor's Office of Planning and Budget, presented the Federal Funds/ARRA/Non-Federal Grants Reports from December 1, 2009 through March 31, 2010. There were seven new federal grants and thirteen reapplications of existing federal grants requiring legislative action. The Governor's Office approved five new grants and six reapplications of existing grants.

Danny Schoenfeld, LFA, highlighted four grant requests from the Administrative Office of the Courts approved by the Judicial Council.

Ms. Bruso presented the ARRA Federal Funds Report. There was one new ARRA grant and no reapplications of existing grants requiring legislative action. The Governor's Office approved four new ARRA grants and no reapplications of existing grants.

Ms. Bruso presented the Non-Federal Grants Report. There were no new grants and no reapplications of existing grants requiring legislative action. The Governor's Office approved two reapplications of existing grants.

Sen. Niederhauser commented that the committee had not received any meeting materials to preview prior to the meeting. Mr. Ball explained that the April 6, 2010 meeting was an extraordinary meeting scheduled for the purpose of awarding the RFP contract. The co-chairs made the decision to include some additional items on the agenda after the normal mailing deadline. Therefore, the materials were not mailed. Sen. Niederhauser requested that meeting materials be sent electronically should this happen again.

Co-Chair Hillyard asked committee members to review the grants, and if there were any questions about particular grants, the co-chairs could add them to next month's agenda.

Rep. Seelig requested more information about the non-federal grant reapplication, Department of Human Services, Drug and Alcohol Services Information System, Item 1 on page 55.

Co-Chair Hillyard suggested delaying action on the Federal Funds/ARRA/Non-Federal Grants Reports until next month. Ms. Bruso pointed out that if action is delayed, agencies can still accept grant awards but will not be able to spend monies without the Executive Appropriations Committee's approval.

Co-Chair Hillyard stated that he would not make a motion to approve the Federal Funds/ARRA/Non-Federal Grants Report until May.

***Ryan White Part B Discussion***

President Waddoups inquired about the federal grant reapplication, Department of Health, Ryan White Part B, Item 4 on page 4, requiring a state match of \$1.4 million. Dr. Robert Rolfs, Director, Division of Disease Control and Prevention, Department of Health, explained that this grant provides a variety of services for individuals who have HIV/AIDS including drug assistance for life saving drugs and supportive services. The grant also helps to pay health insurance premiums. Dr. Rolfs was concerned that approving the grant in May would postpone the spending of monies beyond the grant implementation date.

Co-Chair Hillyard asked if there were any other grants that would be affected by delaying action.

Ms. Bruso stated that the Ryan White Part B reapplication needs to be approved at this time.

President Waddoups recommended that the committee not approve the grant based on the information made available thus far. He commented that the state may be funding services that could potentially be covered under the new federal healthcare plan.

Dr. Rolfs explained that this program serves about 450 people in Utah with HIV/AIDS who are below 200 percent of the federal poverty level, and can not afford the care for HIV/AIDS. This program pays for medications, dental care, mental health care, and in some cases, assistance with housing and health insurance premiums through the high risk pool. He stated that this is a life saving program.

President Waddoups asked if the recently passed national healthcare plan was going to cover the aforementioned services. Dr. Rolfs understood that in 2014, individuals with HIV/AIDS and other people below 133 percent of the federal poverty level will become eligible for Medicaid. For individuals who fall between 133 and 200 percent of the poverty level, Dr. Rolfs was not clear what would happen to them.

President Waddoups asked if these people could be covered under the Utah Comprehensive Health Insurance Pool (HIPUtah). Neal Gooch, Acting Insurance Commissioner, Utah Department of Insurance, explained that individuals in the Ryan White Part B grant program currently have health insurance through HIPUtah. The grant pays for their health insurance premiums. Under the new federal plan, those persons are considered to have coverage and will not be eligible for the new temporary high risk pool. Therefore, they need to remain on HIPUtah and have those premiums paid for in order to have their care provided, unless they drop out for 6 months.

President Waddoups asked if the state's appropriation to HIPUtah could be counted as the state match to the Ryan White Part B grant. Mr. Gooch did not know the answer to that question.

Rep. Litvack asked Dr. Sundwall to speak to the grant.

Dr. David Sundwall, Executive Director, Department of Health, stated that maintaining services to individuals with HIV/AIDS was a matter of life and death. Funding for this program does not come out

of new general revenue but is a maintenance of effort. He encouraged the committee to approve the grant reapplication.

Sen. Romero asked if the grant reapplication needed to be approved in this meeting or could it wait until next month. Dr. Sundwall was uncertain about the deadline or cutoff date. He stated that it may be advantageous to wait until May so that the Department could provide more information about the grant.

Sen. Liljenquist wanted to know how much of the funding goes to purchase antiviral medications, and how much goes to subsidize health insurance premiums. He asked if there were any other federal programs that cover health insurance premiums for people with long term illnesses.

Dr. Sundwall stated \$2 million is designated for the purchase of antiviral medications, and \$1.8 million pays for supportive services and health insurance premiums, totally \$3.8 million. He noted that the state subsidizes health insurance premiums for individuals who have bleeding disorders.

Speaker Clark asked about the grant start/end dates which have expired. Ms. Bruso stated that these dates represent the opportunity dates to apply for the grant. Speaker Clark commented that the \$1.4 million state match for this grant would be in addition to the \$8 million in General Fund the state appropriates to subsidize HIPUtah, a guaranteed issue health insurance program that covers pre-existing conditions.

Co-Chair Bigelow asked if there are any minors covered under this grant. Dr. Rolfs stated that this grant serves very few minors.

***Federal Funds/ARRA/Non-Federal Funds Discussion (continued)***

President Waddoups asked about the federal reapplication, Item 6 on page 4, Natural Resources, Rehabilitation of Recreational Facilities at Starvation State Park, and Item 7 on page 5, Community and Culture, Historic Preservation Fund Grant. Ms. Bruso explained that the Department of Natural Resources has worked with the Bureau of Reclamation in maintaining reservoirs around the state for years. The current grant application is for two years. The \$2 million state match will be used to rehabilitate, repair, and improve existing facilities at Starvation Reservoir. Ms. Bruso stated that she would provide additional information on the two grant reapplications.

Mr. Schoenfeld offered to provide additional information for each of the grants that have a state match, and will designate whether or not each grant is a maintenance of effort, or requires a state appropriation in the current year.

President Waddoups inquired about the federal grant application, Item 41 on page 12, Commission on Criminal and Juvenile Justice (CCJJ), SAVIN. Briant Smith, CCJJ, stated that this grant is used to gather statistical information about different crimes and other related activities. He offered to provide more information on the matching funds.

***Ryan White Part B (continued)***

Rep. Litvack requested that the committee revisit the discussion on Ryan White Part B funding.

Dr. Rolfs indicated that the grant period began on April 1, 2010 and the award has been received. If the reapplication is approved in May, services would be interrupted and patients would not be able to pay for their medications. He stated that the \$1,359,607 million is not a match but a maintenance of effort that includes other funding sources from the state prison, Medicaid, etc. that is used to pay for HIV care.

Rep. Litvack asked Dr. Rolfs to verify that the \$1.4 million does not require an additional appropriation to pull down the \$3.8 million. Dr. Rolfs stated that this was correct. Funding for this program has been in existence for quite some time and needs to be maintained so as to not jeopardize the federal match.

**MOTION:** Rep. Litvack moved to approve the federal reapplication, Department of Health, Ryan White Part B, Item 4 on page 4.

Rep. Litvack explained that he was familiar with this program having served on the Health and Human Services Appropriations Subcommittee. Funding for this program is critical and it would be unfortunate if this medication was denied for one month. Rep. Litvack recommended that the committee approve the reapplication today, and revisit the issue in May, after the committee has had an opportunity to review some additional information.

President Waddoups asked if it were possible to make a motion that allows for the spending of only the life-saving medications. Rep. Litvack stated that he preferred to err on the side of caution and approve the funding as it is currently written to include life saving medications and medical coverage through HIPUtah.

Co-Chair Bigelow asked if the committee has the flexibility to designate how the grant money is used, or if the state is bound to use it as the federal government directs. Ms. Bruso stated that it would depend on how the grant is written. Dr. Rolfs stated that this is a complicated grant and that he would have to do some research to answer that question.

Sen. Jones spoke in favor of Rep. Litvack's motion. She testified to the urgency of these kinds funds. She mentioned a neighbor who has hemophilia and had contracted the HIV virus through a blood transfusion several years ago. She did not want to deny medications to people who rely on them for their life. She felt that the committee should give these people the benefit of the doubt until the committee has the ability talk about this issue further.

Sen. Liljenquist asked if the Department had additional funds to cover these services for one month. Jonathan Ball, LFA, consulted with Russell Frandsen, LFA, who provided budget information for the Division of Epidemiology and Laboratory Services line item indicating a total General Fund budget of \$5.5 million. Dr. Rolfs indicated that a large portion of this budget is in personnel which is spent relatively evenly.

President Waddoups asked if the Division has enough in cash to go another month. Dr. Rolfs indicated that a large portion of the Division's budget consists of dedicated credits or federal grants that are to be used for specific purposes. He did not know if he had enough discretionary funds to pay for one month. President Waddoups stated that he is not voting for this unless he finds out. Dr. Rolfs stated that he was not confident that he had the money to pay for this unless the grant was approved.

Sen. Niederhauser asked why the committee was approving the grant now instead of two or three months ago. Ms. Bruso stated that the Federal Grants/ARRA/Non-Federal Grants Report is not placed on the agenda during session. Dr. Rolfs stated that this is an annual renewal application that the Department makes at a similar time each year. He was not aware of how the Executive Appropriations Committee (EAC) puts its agenda together. Ms. Bruso explained that after the December EAC meeting, the Governor's Office holds the Federal Funds Report in cue for four months until after the session. She was not aware that there was any urgency on the Ryan White Part B grant.

Sen. Niederhauser recommended that there should be better coordination of grant approvals. Ms. Bruso stated that she would try to coordinate with the agencies better so that the Executive Appropriations Committee has sufficient time to review the grants before they expire.

Co-Chair Bigelow noted that the Ryan White Part B grant had been reviewed by the Health and Human Services Appropriations Subcommittee and they had approved the grant. However, the Executive Appropriations Committee has to make the final approval.

Sen. Robles spoke on behalf of the motion. There is an urgency with regards to funding. She pointed out that state agencies do not always have discretionary funding within their budgets to move around, especially when situations arise that are a matter of life or death. She hoped that the committee could make a common sense decision to approve this motion and review the grant next month. Sen. Robles requested that if this grant is to undergo further review, she would like to hear from the experts on this issue. She pointed out that the Health and Human Services Appropriations Subcommittee and the Health and Human Services Standing Committee review these programs on a regular basis. She felt that it was not unreasonable to fund this program at this time.

**SUBSTITUTE MOTION:** Co-Chair Hillyard moved to move onto the next item on the agenda.

Co-Chair Hillyard explained that this motion would give the Department and staff time to talk through this issue. He stated that if the co-chairs had followed the recommendation to only address the RFP in today's meeting, the Federal Funds Report would not have come up until May. Co-Chair Hillyard was bothered by the comment that this is life threatening. The co-chairs had no notice that this was going to be life threatening. He also mentioned the concern about health care at the national level and the cost impacts to the state. He stated that President Waddoups' concerns were valid but he did not want to spend any more time on the issue because the committee needed to address the Request for Proposal.

Rep. Litvack asked if the Department of Health has, in the past, implemented the Ryan White Part B program on April 1, regardless of the Executive Appropriations Committee's action. Dr. Sundwall stated that this program has run continuously for at least 5 years. He wasn't aware of any deadline that needed to be met. This may be a technical glitch. The program has been run with some difficulty because the demand exceeds resources. Dr. Sundwall stated that this was the first time as Executive Director that there has been a problem with the timeliness of renewal or any question on whether we should or shouldn't fund the program.

Rep. Litvack commented that he does not want this issue to go unanswered, whether or not this program can be implemented as of April 1, 2010. He stated that he understands the process and wanting more

information, but this is a health care decision that we are making for other people on a life or death issue before four o'clock today. He was not comfortable in leaving this decision up in the air. Rep. Litvack was not opposed to reevaluating the committee's decision in May, but he did not want to compromise peoples' lives over process issues. He was okay with the Co-Chair Hillyard's substitute motion as long as the committee addressed the issue before the end of the meeting.

Co-Chair Bigelow called for a vote on the motion. The motion passed unanimously.

**3. Consideration and Selection of Consultant for Feasibility Study on Privatization of Portions of the Utah State Hospital and the Utah State Development Center**

Co-Chair Bigelow relinquished the chair to Co-Chair Hillyard.

Steven Allred, LFA, reviewed the Request for Proposal (RFP) process to hire a management consultant to study the feasibility of privatizing the forensics unit at the State Hospital and the semi-secure units at the State Developmental Center. He was assisted by Tom Vaughan, LRGC, and Stephen Jardine, LFA.

Mr. Allred stated that after the closing date of January 19, 2010, copies of six proposals were given to each member of the Executive Appropriations Committee (EAC). On March 29, 2010, the EAC co-chairs and vice chairs heard oral presentations. Based on the presentations and written proposals, bidders were assigned scores according to the evaluation criteria in the RFP. The results of the scoring sheet were emailed to the committee.

Mr. Allred stated that according to the RFP, the EAC reserves the right to not award a contract to any of the proposers, to cancel this RFP at any time, or to issue a new RFP. Consideration of, and award of, the contract is to be conducted on April 6, 2010 at 1:00 p.m. Mr. Allred noted that the study completion date is August 6, 2010, with a formal presentation to the EAC on August 17, 2010.

Mr. Allred noted that a copy of the RFP and selected addenda could be found behind tab 3.

Mr. Allred invited the co-chairs and vice chairs to comment on the presentations.

Co-Chair Hillyard commented that EAC co-chairs and vice-chairs met with staff on Monday, March 29, 2010, at 8:30 a.m for a briefing prior to hearing six 30-minute oral presentations. He was very impressed with the six local and national groups that made their presentations. They brought out different issues that need to be considered in privatizing portions of the Utah State Hospital and the Utah State Development Center.

Co-Chair Bigelow assumed the chair.

Sen. Niederhauser asked for the name of the local group that was represented. Tom Vaughn stated, Dark Horse Group (DHG), Park City, Utah.

Co-Chair Bigelow relinquished the chair to Co-Chair Hillyard.

Sen. Niederhauser asked if Public Consulting Group (PCG) had been selected. Co-Chair Hillyard affirmed the selection.

Co-Chair Hillyard relinquished the chair to Vice Chair Last.

**MOTION:** Co-Chair Hillyard moved that the committee find, pursuant to Utah Code Subsection 63G-6-408 (6), the responsible offeror who is most advantageous to the state, taking into consideration price and the evaluation factors set forth in the RFP is Public Consulting Group, Inc. Based on that finding, Co-Chair Hillyard moved to select Public Consulting Group as the consultant to carry out a feasibility study on privatization of portions of the Utah State Hospital and the Utah State Development Center. He further moved to authorize legislative staff to draft a contract with Public Consulting Group in accordance with the terms set forth in the Request for Proposals and in the proposal submitted by Public Consulting Group.

Vice Chair Liljenquist spoke in favor of the motion. He stated that of the groups they looked at, Public Consulting Group was superior. He noted PCG's national experience and he felt that this group was impartial and data driven.

Co-Chair Bigelow assumed the chair.

Sen. Romero asked if there was any minority party participation in the interviews. Co-Chair Hillyard clarified that the co-chairs and vice chairs were previously tasked to conduct the interviews in a motion passed in an Executive Appropriations Committee meeting. Sen. Romero encouraged minority party participation in the future. This would give them the ability to speak first hand on what occurred and what was said in the interviews.

Co-Chair Bigelow stated that committee members had access to the proposals. While the co-chairs and vice chairs were asked to analyze them in more detail, this did not prevent anyone from participating or evaluating these proposals. Sen. Romero commented that interviewing and having an opportunity for an exchange is valuable.

Rep. Moss wanted to know the amount of the appropriation for this study. Co-Chair Bigelow stated, \$140,000.

Rep. Seelig wanted to make sure that none of the respondents stood to benefit from the privatization. Co-Chair Hillyard stated that this criteria is clearly set forth in the RFP.

Sen. Mayne expressed concern that often times the lowest bidder does not take into consideration all of the costs associated with completing a task. In this case, PCG was the lowest bidder. Mr. Vaughn stated that overall cost was not the deciding factor in the selection process. While it may have helped PCG, the firm's capability and comprehension in fulfilling the purposes, expectations, and requirements of the RFP played a greater role. Mr. Vaughn also pointed out that the contract within the RFP states that the successful proposer can not come back and ask for more money above what they bid.



Rep. Last clarified that this is a feasibility study on privatization. He observed that this particular project mirrors other projects that PCG has done. They already have a lot of data that they need to complete this project along with a system and a format in place that will allow them to do the study for less money. He pointed out that the four legislators and staff all agreed that this was the standout proposer.

Co-Chair Hillyard stated while the co-chairs and vice chairs were aware of what the cost of the bids were, they did not discuss costs in the oral interviews. He also observed that none of the groups came in with any preconceived ideas of whether these state entities should be privatized or not. The proposers did not make any recommendations, but merely stated the pros and cons.

The motion passed with Sen. Robles voting in opposition.

***Ryan White Part B (continued)***

Sen. Liljenquist asked Dr. Sundwall if the costs for the Ryan White Part I program could be covered for one month without a lapse in coverage, approximately \$420,000. Dr. Sundwall was confident that the Department could cover those costs within its existing budget and promised to provide the Executive Appropriations Committee with an accounting of expenditures. Sen. Liljenquist stated that it would be worthwhile to move forward on the agenda and revisit the federal grants next month.

Dr. Sundwall apologized for the hyperbole on the life and death references in this discussion. He stated that the risk to an individual who goes without this medication for a short period of time is not as critical as the individual who goes without it for a long period of time.

Sen. Robles asked if the \$420,000 covers new enrollment. Dr. Sundwall stated that the program has not been enrolling any new patients, nor has a waiting list been published. He stated that they will be able to maintain the commitments they have.

Rep. Litvack pointed out that since the Executive Appropriations Committee will not meet until the middle of May, the program will need more than \$420,000, possibly \$700,000. Dr. Sundwall stated that within his large agency, he believed he could cover that amount. Dr. Sundwall stated that this grant timing caught him entirely by surprise.

Rep. Litvack asked if the funding shift within the Department would create a lapse in programs or services in other areas of the Department. Dr. Sundwall guaranteed that this will not happen and agreed to report back to Executive Appropriations Committee on how this was accomplished.

Rep. Moss was troubled about breaking this funding up and making this kind of arrangement that puts the Department in a position of having to possibly replace monies shifted from other programs in the event the Executive Appropriations Committee does not approve the grant. She was not clear on why so much attention was being placed on this particular grant.

Co-Chair Bigelow explained that the status of the Ryan White Part B grant was not an issue to the parties involved prior to this meeting. Suddenly, this grant has become a life or death issue. He commented on the process of getting good information. Dr. Sundwall was put in a very difficult position of making a judgment call on information with which he was unfamiliar. Dr. Sundwall has stepped forward with a

short term solution to make sure that no one's life is threatened by action or inaction of the Executive Appropriations Committee. Co-Chair Bigelow indicated that the committee supports Dr. Sundwall in his effort to sustain this funding until next month.

Co-Chair Bigelow stated that the Executive Branch needs to communicate with the Executive Appropriations Committee and the Department of Health on issues that are a matter of life and death in a timely manner.

Sen. Robles asked Dr. Sundwall how he was going to compensate for those monies if Executive Appropriations Committee doesn't approve this. Dr. Sundwall said that he doesn't want to be cavalier but he can't predict what will happen if they can't get the federal money. He was confident that he can work with Executive Appropriations Committee on this matter.

Sen. Robles commented that she did not want the Department of Health to be put on the spot by her comments about life and death or make any one feel uncomfortable. She is concerned about the fiscal process.

Co-Chair Bigelow stated that the committee does not expect Dr. Sundwall to pull funds from other programs leaving them short funded and cutting services. This is a unique situation that is being resolved in a public meeting. Advocates within the Department of Health should not be concerned that their programs are going to be cut.

Pres. Waddoups identified a number of grants being tracked by the Governor's Office that he would like some additional information: Items 119, 125, 143, 239, 269, 270 , 279, 282, 295, and 304.

Co-Chair Bigelow asked if President Waddoups would like this information returned to him or presented in the Executive Appropriations Committee meeting. President Waddoups indicated that if he received this information early enough, he may or may not have questions in May.

#### **4. Assignment of Interim Studies (Agenda Item 7)**

Jonathan Ball, LFA, commented on the memorandum recommending that the Executive Appropriations Committee (EAC) ask the Legislative Management Committee to amend Item 127 of the Master Study Resolution as shown below, and ask the Governor's Office to carry out the following study:

127. Medicaid Program Coordination - to study the consolidation or improved coordination of the Medicaid program by the Department of Health, the Department of Human Services, and the Department of Workforce Services. The coordination study shall include a format for a combined, unified annual report from the three departments, and any other state agency receiving Medicaid funds, to the Executive Appropriations Committee showing how all Medicaid appropriations were spent in the prior fiscal year. Additionally, study shall be made for potential options for coordinated reporting from those performing final expenditures via contract.

Mr. Ball indicated that if the committee makes a motion to approve this recommendation, he had a letter for the co-chairs to sign which will be presented to the Legislative Management Committee that will be meeting upon conclusion of EAC.

Co-Chair Hillyard stressed the importance of examining Medicaid and making sure it doesn't become the driving factor of the state's budget.

**MOTION:** Co-Chair Hillyard moved to ask the Management Committee to request that the Governor's Office of Planning and Budget conduct a Medicaid Coordination Study as outlined in the memorandum presented today. The motion passed unanimously.

Co-Chair Bigelow stated that the committee will postpone the remaining agenda items until the May meeting.

**8. Other Business**

Sen. Romero recognized Sen. Mayne as today is her birthday. President Waddoups congratulated Sen. Romero on the birth of a new daughter.

**MOTION:** Co-Chair Hillyard moved to adjourn. The motion passed unanimously.

Co-Chair Bigelow adjourned the meeting at 3:26 p.m.